



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

June 25, 1998

H.R. 4005

The Money Laundering Deterrence Act of 1998

*As ordered reported by the House Committee on Banking and Financial Services
on June 11, 1998, with subsequent amendments*

SUMMARY

H.R. 4005 would amend Title 31 of the U.S. Code so as to help federal agencies detect and prevent financial crimes. Subject to the availability of appropriated funds, CBO estimates that implementing H.R. 4005 would increase federal costs to combat money laundering by between \$500,000 and \$1 million in fiscal year 1999. For fiscal year 2000 and subsequent years, we estimate that implementing the bill would cost less than \$500,000 a year, and could result in some savings. Because H.R. 4005 could increase the amounts collected from civil and criminal fines, as well as the amounts seized from forfeited assets, pay-as-you-go procedures would apply. CBO estimates that the net effect of such changes for pay-as-you-go purposes would be less than \$500,000 annually.

H.R. 4005 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would preempt certain state laws. CBO estimates that no costs would result from these mandates. The bill would not have any other significant effects on the budgets of state, local, or tribal governments.

H.R. 4005 also would impose private-sector mandates on independent public accountants and financial institutions. CBO estimates that the annual direct costs of complying with those mandates would not exceed the statutory threshold for private-sector mandates (\$100 million in 1996, adjusted annually for inflation).

DESCRIPTION OF BILL'S MAJOR PROVISIONS

Under current law, certain private-sector entities are required to report cash transactions in excess of \$10,000 to the Internal Revenue Service (IRS). H.R. 4005 would require them, instead, to file reports with the Department of the Treasury. The bill also would extend from

one to two years—after a money laundering offense—the period of time during which the Department of Justice (DOJ) can seize fungible property in bank accounts that are holding or have held laundered funds. H.R. 4005 also would increase the civil and criminal penalties for violating targeting orders and certain recordkeeping requirements, and would increase the criminal penalties for violating certain laws aimed at preventing money laundering in designated high-intensity areas. Finally, the bill would require the Treasury Department to submit a report to the Congress on private banking activities, develop criteria for designating countries as high-intensity areas for money laundering activities, and issue regulations to implement several of the bill’s provisions.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

Spending Subject to Appropriation

Subject to the availability of funds, CBO estimates that implementing H.R. 4005 would increase costs to combat money laundering by between \$500,000 and \$1 million in fiscal year 1999. For fiscal years 2000 and thereafter, we estimate that implementing the bill would increase annual costs by less than \$500,000, with the possibility that it could result in annual savings (in some or all years). The estimate for 1999 reflects the costs for the Department of the Treasury to submit a report to the Congress on private banking activities, develop criteria for designating countries as high-risk areas for money laundering activities, and issue regulations to implement several of the bill’s provisions. The estimate for fiscal years 2000 and thereafter covers remaining annual costs, such as the cost of notifying insured depository institutions of foreign countries that have been designated as high-risk areas for money laundering activities.

The bill could also result in small savings to federal agencies. For instance, it would require that certain private-sector entities begin reporting cash transactions in excess of \$10,000 to the Treasury rather than to the IRS, as required under current law. As a consequence, the reported information would become available for use by law enforcement agencies, possibly saving some investigation costs.

Direct Spending and Revenues

The bill would extend from one to two years the period of time in which DOJ can seize fungible property in bank accounts that are holding or have held laundered funds. By extending the period of time, the provision could lead to an increase in the amount of assets seized by the federal government each year, thus adding to governmental receipts. However, CBO has no basis for estimating the amount of any such increase. Because DOJ can spend

amounts seized without further appropriation action, any increase in governmental receipts would be offset over time by an equivalent increase in direct spending.

Additionally, the bill would both clarify and increase the civil and criminal penalties for violating targeting orders and certain recordkeeping requirements. It would also increase the criminal penalties for violating certain laws aimed at preventing money laundering in designated high-intensity areas. CBO estimates that the additional collections of civil and criminal penalties, both of which are recorded in the budget as governmental receipts, would be less than \$500,000 annually. Because collections of criminal fines are deposited in the Crime Victims Fund and spent in the following year, the provision would also increase direct spending. We estimate, however, that the additional direct spending also would be less than \$500,000 annually.

PAY-AS-YOU-GO CONSIDERATIONS

Section 252 of the Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. H.R. 4005 would affect both direct spending and governmental receipts; however, CBO estimates that the effect of such changes would be less than \$500,000 annually.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

In general, H.R. 4005 would help law enforcement agencies, including state and local agencies, identify and prosecute money launderers. In doing so, the bill would impose intergovernmental mandates as defined in UMRA. It would broaden an existing preemption of state law by limiting the civil liability of independent public accountants who audit financial institutions and disclose information about any possible involvement in illegal activity. It would also shield financial institutions and their employees from liability in connection with certain employment references they may provide. Under UMRA such preemptions of state law are mandates. However, because the preemptions would simply limit the application of state law in some circumstances, CBO estimates that no costs would result from these mandates. The bill would not have any other significant effects on the budgets of state, local, or tribal governments.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 4005 would impose private-sector mandates, but CBO estimates that any costs would be negligible. Section 3 would prohibit financial institutions and independent public

accountants that audit financial institutions and report any suspicious transactions to a government agency from disclosing any information included in the report to any involved individual. CBO estimates that financial institutions and independent public accountants would not incur any additional costs in complying with this mandate.

Section 12 would require that financial institutions maintain all accounts so that the name of the account holder and the number of the account are associated with all account activity of the account holder. That information would also be required to be available for regulatory review and law enforcement. According to representatives from the banking industry and the Treasury Department, most financial institutions currently have this information. This mandate would minimally increase financial institutions' record keeping responsibility, including the retention and retrieval of required information.

Section 9 would require that the Treasury Department issue "Know Your Customer" regulations for financial institutions within 120 days after the enactment date of H.R. 4005. "Know Your Customer" policies allow banks to establish and maintain procedures to identify their customers and to understand the sources of funds and the normal and expected transactions of their customers. Those provisions are included in the Bank Secrecy Act, and the Treasury Department is in the process of developing regulations to implement them. CBO concludes that section 9 would not impose a new mandate on financial institutions.

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